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EXAMINER	
NGUYEN, T	
ART UNIT	PAPER NUMBER
3748	

DATE MAILED: 09/07/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/643,912

Applicant(s)
Asami et al.

Examiner
Tu M. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jul 20, 2001
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirements

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other: _____

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DETAILED ACTION

1. An Applicant's Amendment filed on July 20, 2001 has been entered.

Claims 1 and 3 have been amended. Overall, claims 1-4 are pending in this application.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office Action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Yamazaki et al. (U.S. Patent 6,032,753).

Re claim 1, as illustrated in Figures 1 and 2, Yamazaki et al. disclose a catalyst warming control apparatus for a hybrid vehicle having an internal combustion engine (10), a generator (14) for generating electric power from the output from the internal combustion engine, a power storage unit (19) for storing electric power generated by the generator, and an electric motor (16) driven by the electric power stored in the power storage unit, the hybrid vehicle being driven by at

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least one of the outputs from the internal combustion engine and the motor, the catalyst warming control apparatus comprising:

- a temperature detector, (82) in Figure 4, for detecting the temperature of a catalyst (43a);
- a first comparison circuit for comparing the detected result from the temperature detector with a preset reference value (steps S308 and S310 in Figure 15); and
- a control circuit for allowing the generator to generate electric power and to store the power in the power storage unit when the internal combustion engine is driven, and when the detected result by the temperature detector is equal to or below the reference value according to the output from the comparison circuit. According to Figure 15, when the temperature of the catalyst is below a catalyst activated temperature (YES answer at step S310), the internal combustion engine is driven; and the generator is allowed to generate electric power which is stored in the power storage unit (steps S312 and S314; lines 15-34 of column 13).

Re claim 2, the catalyst warming control apparatus of Yamazaki et al. further comprises:

- a remaining charge detector, (78) in Figure 4, for detecting a remaining charge of the power storage unit; and
- a second comparison circuit for comparing the detected result from the remaining charge detector with a preset reference value relating to the remaining charge (step S342 in Figure 20),
wherein the control circuit drives the vehicle by the output from the internal combustion engine, and allows the generator to generate electric power and to store the power in the power

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storage unit, when the detected result from the temperature detector is equal to or below the reference value according to the output from the first comparison circuit, and when the detected result from the remaining charge detector is equal to or below the reference value (NO answer at step S342) relating to the remaining charge according to the output from the second comparison circuit (step S344; lines 20-46 of column 14).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamazaki et al. as applied to claims 1 and 2, respectively, above, in view of Yoshida (U.S. Patent 5,785,138).

The catalyst warming control apparatus of Yamazaki et al. cited above further comprises:

- a remaining charge detector, (78) in Figure 4, for detecting a remaining charge of the power storage unit or a value relating to the same; and
- a second comparison circuit for comparing the detected result from the remaining charge detector with a preset reference value relating to the remaining charge (step S342 in Figure 20).

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Yamazaki et al., however, fail to disclose that the control circuit allows the generator to generate electric power, and drives the vehicle by the **generated electric power** and stores the electric power, when the detected result from the temperature detector is equal to or below the reference value according to the output from the first comparison circuit, and when the detected result from the remaining charge detector is **above** the reference value relating to the remaining charge according to the output from the second comparison circuit.

As shown in Figures 1 and 2, Yoshida teaches an operating method for a hybrid car, in which the controller (60) allows the generator (30) to generate electric power, and drives the vehicle by the electric motor (10) and stores the electric power, when the detected result from the temperature detector (43) is equal to or below a first reference value (step S7), and when the detected result from the remaining charge detector is **above** a second reference value relating to the remaining charge (step S3) (also see line 18 of column 11 to line 20 of column 12). It would have been obvious to one having ordinary skill in the art at the time of the invention was made, to have utilized the method taught by Yoshida in the apparatus of Yamazaki et al., since the use thereof would have provided an effective control apparatus to reduce harmful emissions from a hybrid vehicle.

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Response to Applicants Arguments

6. Applicants' arguments with respect to the references applied in the first Office Action have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention (page 6 of Applicant's Amendment), it is noted that the feature upon which applicant relies (i.e., the use of cooling water temperature as a parameter in a catalyst warming control apparatus) is not clearly and absolutely recited in the rejected claim(s). Based claim 1 states that a temperature detector or (emphasis added) a value relating to the same (i.e. cooling water temperature) is one of the parameters required in the catalyst warming control apparatus. Therefore, cooling water temperature is clearly not the only means for detecting the temperature of a catalyst in the pending application. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Communication

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Tu Nguyen whose telephone number is (703) 308-2833.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Thomas E. Denion, can be reached on (703) 308-2623. The fax phone number for this group is (703) 308-7763.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

TMN

September 5, 2001

Tu M. Nguyen

Tu M. Nguyen

Patent Examiner

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Thomas Denion
THOMAS DENION
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